

**UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO**

-----X
In re: PROMESA
Title III
THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,
No. 17 BK 3283-LTS
as representative of
THE COMMONWEALTH OF PUERTO RICO, *et al.*, (Jointly Administered)
Debtors.¹
-----X

NOTICE OF BREACH OF MEDIATION CONFIDENTIALITY

This Notice is being filed on behalf of the entire Mediation Team, whose members have reviewed and approved it for filing. From the Mediation Team's perspective, what occurred last week in open court is unfortunate. As is readily apparent from a careful review of the transcript, the confidential nature of the mediation process was breached on numerous occasions.

While it should not be necessary as all parties participating in the mediation process agreed to confidentiality, on behalf of the Mediation Team, I ask Judges Swain and Dein to adopt a zero-tolerance policy with respect to mediation parties disclosing in court or in court-filed pleadings what is, or is not, happening in the confidential mediation process that has been established in these cases. From our perspective, the mediation process should not be permitted to be used as a shield or a sword in formal court proceedings. Moreover, mediation parties

¹ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

should not be permitted to speculate as to what I (or any other mediator) think(s) about particular issues, as was done in open court last week. Since we are not permitted to tell anyone outside the mediation process our views of how well specific issues, including document production, are proceeding in mediation, no one else should be permitted to speculate as to our views either.

Finally, it is imperative to the mediation process in these cases that the mediation process proceed on an entirely separate track from the litigation or contested matter processes in these cases. The two processes (mediation vs. court) should not be conflated; nor should mediation parties be prevented from seeking to enforce their legal rights in court because they have chosen to participate in the mediation process. Otherwise, they could feel compelled to withdraw from the mediation process to protect their legal rights in court, which would be unfortunate for all concerned.

While the filing of this Notice is unusual, it is necessary given the events of last week.

Dated: November 20, 2017

Respectfully submitted,

/s/ Barbara J. Houser

Barbara J. Houser
Mediation Team Leader
Chief Judge, United States Bankruptcy
Court for the Northern District of Texas